



DEPARTMENT OF THE NAVY

COMMANDER IN CHIEF  
UNITED STATES PACIFIC FLEET  
250 MAKALAPA DRIVE  
PEARL HARBOR, HAWAII 96860-3131

IN REPLY REFER TO:

5830

Ser N00/269

17 Feb 01

From: Commander in Chief, U.S. Pacific Fleet

To: Vice Admiral John B. Nathman, USN, [ (126) ]

Subj: COURT OF INQUIRY INTO THE CIRCUMSTANCES SURROUNDING THE  
COLLISION BETWEEN USS GREENEVILLE (SSN 772) AND JAPANESE  
M/V EHIME MARU THAT OCCURRED OFF THE COAST OF OAHU,  
HAWAII ON 9 FEBRUARY 2001

Ref: (a) JAGINST 5830.1

1. Per reference (a), a court of inquiry is appointed to inquire into all facts and circumstances surrounding the collision between USS GREENEVILLE (SSN 772) and M/V EHIME MARU that occurred off the coast of Oahu, Hawaii on 9 February 2001. The court will convene at Trial Service Office Pacific, 850 Willamette Street, Naval Station Pearl Harbor, Hawaii, at 0800 on 22 February 2001, or as soon thereafter as practicable.
2. The court will consist of you as president, Rear Admiral Paul F. Sullivan, USN and Rear Admiral David M. Stone, USN. I also intend to invite Japan to send a Japanese Maritime Self-Defense Force flag officer to participate on the court as an advisor and non-voting member. Captain Bruce E. MacDonald, JAGC, USN, and Commander Michael I. Quinn, JAGC, USN, lawyers qualified under Article 27(b) of the Uniform Code of Military Justice, are designated as counsel for the court.
3. The court is directed to inquire into all of the facts and circumstances connected with the collision, resulting deaths and injuries to the Japanese passengers and crew of the Japanese M/V EHIME MARU, the damages resulting therefrom, and any fault, neglect, or responsibility for the incident.
4. The court is also directed to examine the operational policies and practices of Commander, Submarine Force, U.S. Pacific Fleet's implementation of the Distinguished Visitor Embarkation (DVE) Program. Provide your candid assessment and conclusions regarding the execution of this program on 9 February 2001, as well as any recommendations the court may have for improving the policies and practices related to the DVE

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PAGE 1 OF 3

Subj: COURT OF INQUIRY INTO THE CIRCUMSTANCES SURROUNDING THE COLLISION BETWEEN USS GREENEVILLE (SSN 772) AND JAPANESE M/V EHIME MARU THAT OCCURRED OFF THE COAST OF OAHU, HAWAII ON 9 FEBRUARY 2001

program. In addition, you are directed to examine the propriety of the assigned location for USS GREENEVILLE's operations on 9 February 2001.

5. Include in your final report the court's findings of fact, opinions, and recommendations, including any recommended administrative or disciplinary actions, as appropriate. Complete your report as quickly as possible, but the court's emphasis must remain on thoroughness rather than speed. I have not given you a specific date to submit your report because I want you to take whatever time is required to address all relevant issues completely. However, you are directed to provide me a report on the status of the inquiry within seven (7) days after the court convenes, and at weekly intervals thereafter until the court completes its inquiry.

6. The court is directed to notify the following officers of the time and place of the meeting of the court and that they are parties to the inquiry, and to accord them the rights of a party pursuant to the provisions of reference (a). The court is authorized to designate additional parties during the proceedings. If you designate additional parties, you are directed to comply with reference (a).

- a. Commander Scott D. Waddle, USN
- b. Lieutenant Commander Gerald K. Pfeifer, USN
- c. Lieutenant (Junior Grade) Michael J. Coen, USN

7. Commander Jennifer S. Herold, JAGC, USN, a lawyer qualified under Article 27(b) of the Uniform Code of Military Justice, has been designated counsel for Commander Waddle, USN.

8. Lieutenant Commander Timothy D. Stone, JAGC, USN, a lawyer qualified under Article 27(b) of the Uniform Code of Military Justice, has been designated counsel for Lieutenant Commander Pfeifer.

9. Lieutenant Marcus N. Fulton, JAGC, USNR, a lawyer qualified under Article 27(b) of the Uniform Code of Military Justice, has been designated counsel for Lieutenant (Junior Grade) Coen.

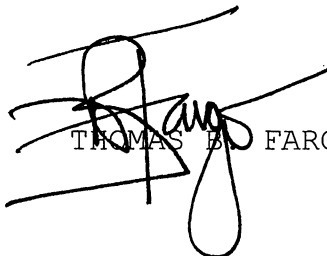
EXHIBIT A  
PAGE 2 OF 3

Subj: COURT OF INQUIRY INTO THE CIRCUMSTANCES SURROUNDING THE  
COLLISION BETWEEN USS GREENEVILLE (SSN 772) AND JAPANESE  
M/V EHIME MARU THAT OCCURRED OFF THE COAST OF OAHU,  
HAWAII ON 9 FEBRUARY 2001

10. Although Captain Robert L. Brandhuber, USN, Chief of Staff, Submarine Force, U.S. Pacific Fleet is not designated as a party to the court, you are directed to examine and make findings as to whether he, as the senior officer onboard USS GREENEVILLE on 9 February 2001, was in a position to intervene and prevent the chain of events leading to the collision.

11. The court is directed to take the testimony of witnesses under oath and to submit a verbatim record of the proceedings. Compliance with the Privacy Act of 1974 is mandatory during the proceedings. You are authorized to appoint reporters, evidence custodians, security officers, public affairs officers, and interpreters as appropriate.

12. By signed copy of this appointing order, Commanding Officer, Trial Service Office Pacific, is requested to furnish an appropriate location, necessary reporters and other clerical assistance to the court for the purpose of recording and preparing the record of this court of inquiry. Should you require additional administrative support, you are directed to contact my Fleet Judge Advocate, Captain D. Michael Hinkley, JAGC, USN at (808) 474-7880.

  
THOMAS B. FARGO

Copy to:

CNO

USCINCPAC

Rear Admiral Sullivan, USN

Rear Admiral Stone, USN

Captain MacDonald, JAGC, USN

Commanding Officer, Trial Service Office Pacific

Commander Waddle, USN

Lieutenant Commander Pfeifer, USN

Lieutenant (Junior Grade) Coen, USN

Commander Herold, JAGC, USN

Lieutenant Commander Stone, JAGC, USN

Lieutenant Fulton, JAGC, USNR

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PAGE 3 OF 3



DEPARTMENT OF THE NAVY

COMMANDER IN CHIEF  
UNITED STATES PACIFIC FLEET  
250 MAKALAPA DRIVE  
PEARL HARBOR, HAWAII 96860-3131

IN REPLY REFER TO:

5830

Ser N00/291

22 Feb 01

From: Commander in Chief, U.S. Pacific Fleet  
To: Vice Admiral John B. Nathman, USN, C (b)(6) }  
Subj: COURT OF INQUIRY INTO THE CIRCUMSTANCES SURROUNDING THE  
COLLISION BETWEEN USS GREENEVILLE (SSN 772) AND JAPANESE  
M/V EHIME MARU THAT OCCURRED OFF THE COAST OF OAHU,  
HAWAII ON 9 FEBRUARY 2001

Ref: (a) CDR Herold and LCDR Young ltr of 20 Feb 01  
(b) LCDR Stone ltr of 20 Feb 01  
(c) LT Fulton ltr of 20 Feb 01  
(d) Mr. Charles W. Gittins ltr of 21 Feb 01  
(e) CINCPACFLT ltr of 17 Feb 01 Ser N00/269 (Original  
Appointing Order)  
(f) JAGINST 5800.7C CH-3  
(g) JAGINST 5830.1

1. Pursuant to the requests for continuances contained in references (a) through (d), reference (e) is amended to reflect that the court of inquiry will convene at Trial Service Office Pacific, 850 Willamette Street, Naval Station Pearl Harbor, Hawaii at 0800 on March 5, 2001, or as soon thereafter as practicable.

2. Lieutenant Commander Barry L. Harrison, JAGC, USN, a lawyer qualified under Article 27(b) of the Uniform Code of Military Justice, is designated an assistant counsel for the court.

3. Rear Admiral Isamu Ozawa, Japanese Maritime Self-Defense Force, will participate as an advisor and non-voting member of the court of inquiry, as authorized by sections 0211(d) and (h), respectively, of reference (f).

4. Commander Douglas Wright, USN, is designated as a technical advisor to the court in accordance with reference (g).

  
THOMAS B. FARGO

EX-111 B  
PAGE 1 OF 2

Subj: COURT OF INQUIRY INTO THE CIRCUMSTANCES SURROUNDING THE  
COLLISION BETWEEN USS GREENEVILLE (SSN 772) AND JAPANESE  
M/V EHIME MARU THAT OCCURRED OFF THE COAST OF OAHU,  
HAWAII ON 9 FEBRUARY 2001

Copy to:

CNO

USCINCPAC

COMSUBPAC

Rear Admiral Sullivan, USN

Rear Admiral Stone, USN

Rear Admiral Ozawa, USN

Captain MacDonald, JAGC, USN

Captain Brandhuber, USN

Commanding Officer, Trial Service Office Pacific

Commander Wright, USN

Commander Waddle, USN

Lieutenant Commander Pfeifer, USN

Lieutenant (Junior Grade) Coen, USN

Commander Herold, JAGC, USN

Lieutenant Commander Stone, JAGC, USN

Lieutenant Commander Harrison, JAGC, USN

Lieutenant Fulton, JAGC, USNR

Mr. Charles W. Gittins

EXHIBIT <sup>B</sup>

PAGE 2 OF 2



DEPARTMENT OF THE NAVY

COMMANDER IN CHIEF  
UNITED STATES PACIFIC FLEET  
250 MAHALA DRIVE  
PEARL HARBOR, HAWAII 96860-3131

IN REPLY REFER TO:

5830

Ser N00/310

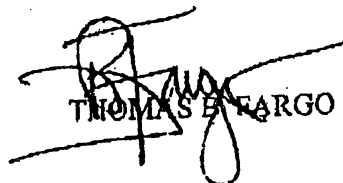
26 Feb 01

From: Commander in Chief, U.S. Pacific Fleet  
To: Vice Admiral John B. Nathman, USN, [ (b)(6) ]

Subj: COURT OF INQUIRY INTO THE CIRCUMSTANCES SURROUNDING THE  
COLLISION BETWEEN USS GREENEVILLE (SSN 772) AND JAPANESE M/V  
EHIME MARU THAT OCCURRED OFF THE COAST OF OAHU, HAWAII ON  
9 FEBRUARY 2001

Ref: (a) JAGMAN  
(b) JAGINST 5830.1

1. Pursuant to references (a) and (b), Lieutenant Commander Brent G. Filbert, JAGC, USN, a lawyer qualified under Article 27(b) of the Uniform Code of Military Justice, is appointed as counsel for Lieutenant (Junior Grade) Coon, USN.

  
THOMAS B. FARGO

Copy to:

CNO

USCINCPAC

COMSUBPAC

Rear Admiral Sullivan, USN

Rear Admiral Ozawa, USN

Rear Admiral Stone, USN

Captain Brandhuber, USN

Captain MacDonald, JAGC, USN

Commanding Officer, Trial Service Office Pacific

Commander Quinn, JAGC, USN

Commander Wright, USN

Commander Waddle, USN

Lieutenant Commander Pfeifer, USN

Lieutenant (Junior Grade) Coon, USN

Commander Herold, JAGC, USN

Lieutenant Commander Young, JAGC, USN

Lieutenant Commander Stone, JAGC, USN

Lieutenant Commander Filbert, JAGC, USN

Lieutenant Commander Harrison, JAGC, USN

Lieutenant Fulton, JAGC, USNR

Mr. Charles W. Gittins

EXHIBIT  
PAGE 1 OF 1



DEPARTMENT OF THE NAVY

COMMANDER IN CHIEF  
UNITED STATES PACIFIC FLEET  
250 MAKALAPA DRIVE  
PEARL HARBOR, HAWAII 96860-3131

IN REPLY REFER TO:

5830  
Ser N00/350  
1 MAR 01

From: Commander in Chief, U.S. Pacific Fleet  
To: Vice Admiral John B. Nathman, USN, [ (b)(6) ]

Subj: COURT OF INQUIRY INTO THE CIRCUMSTANCES SURROUNDING THE  
COLLISION BETWEEN USS GREENEVILLE (SSN 772) AND JAPANESE  
M/V EHIME MARU THAT OCCURRED OFF THE COAST OF OAHU,  
HAWAII ON 9 FEBRUARY 2001

Ref: (a) JAGMAN  
(b) JAGINST 5830.1

1. Pursuant to references (a) and (b), Lieutenant Commander H. Kimberlie Young, JAGC, USN, a lawyer qualified under Article 27(b) of the Uniform Code of Military Justice, is appointed as counsel for Commander Scott D. Waddle, USN.

2. Commander Mark D. Patton, USN, is appointed as a privileged expert assistant for Commander Scott D. Waddle, USN.

3. Commander Japhet D. Woolston, USN, is appointed as a privileged expert assistant for Lieutenant Commander Gerald D. Pfeifer, USN.

4. Lieutenant Commander William J. Breitfelder, USN, is appointed as a privileged expert assistant for Lieutenant (Junior Grade) Michael J. Coen, USN.

  
THOMAS B. FARGO

EX-100  
PAGE 1 OF 2

Subj: COURT OF INQUIRY INTO THE CIRCUMSTANCES SURROUNDING THE  
COLLISION BETWEEN USS GREENEVILLE (SSN 772) AND JAPANESE  
M/V EHIME MARU THAT OCCURRED OFF THE COAST OF OAHU,  
HAWAII ON 9 FEBRUARY 2001

Copy to:

CNO

USCINCPAC

COMSUBPAC

Rear Admiral Sullivan, USN

Rear Admiral Ozawa, JMSDF

Rear Admiral Stone, USN

Captain Brandhuber, USN

Captain MacDonald, JAGC, USN

Commanding Officer, Trial Service Office Pacific

Commander Quinn, JAGC, USN

Commander Wright, USN

Commander Waddle, USN

Commander Patton, USN

Commander Woolston, USN

Lieutenant Commander Pfeifer, USN

Lieutenant (Junior Grade) Coen, USN

Commander Herold, JAGC, USN

Lieutenant Commander Young, JAGC, USN

Lieutenant Commander Stone, JAGC, USN

Lieutenant Commander Filbert, JAGC, USN

Lieutenant Commander Harrison, JAGC, USN

Lieutenant Commander Breitfelder, USN

Lieutenant Fulton, JAGC, USNR

Mr. Charles W. Gittins



5 March 2001

From: Charles Gittins, Counsel for CDR Scott Waddle, USN  
To: Commander in Chief, U.S. Pacific Fleet

Subj: OBJECTION TO JMSDF ADVISOR ON THE COURT OF INQUIRY  
INTO THE CIRCUMSTANCES SURROUNDING THE COLLISION  
BETWEEN THE USS GREENEVILLE (SSN 772) AND JAPANESE  
M/V EHIME MARU THAT OCCURRED OFF THE COAST OF OAHU,  
HAWAII ON 9 FEBRUARY 2001


Ref: (a) CINCPACFLT ltr of 27 Feb 01  
(b) JAGINST 5800.7C CH-3 (JAGMAN)  
(c) CINCPACFLT ltr of 17 Feb 01

1. Reference (a) indicates that Rear Admiral Isamu Ozawa of the Japanese Maritime Self-Defense Force (JMSDF) will participate in the court of inquiry as an advisor and non-voting member per sections 0211(d) and (h) of reference (b).
2. Counsel for Commander Scott Waddle, USN, who is a party to the inquiry, objects to the presence and participation of Rear Admiral Ozawa at the court of inquiry. Paragraph 0211(d) of reference (b) authorizes the convening authority to appoint "full-time Federal personnel (military or civilian) to participate in the proceedings and advise the members." While Commander Douglas Wright, USN, may meet these requirements and, as such, has been designated a technical advisor, Rear Admiral Ozawa does not. He is not "Federal personnel," but a foreign military representative, whose participation does not comply with the regulatory mandates of the court of inquiry.
3. Paragraph (h) of reference (b) also does not authorize the participation of Rear Admiral Ozawa. That paragraph allows the participation of an individual or organization that has an interest in the subject under inquiry. The interests of a representative of the JMSDF in a collision involving a civilian fishing vessel are tenuous at best. Paragraph (h) also indicates that appropriate limits on the degree of participation should be specified in advance.

EXHIBIT E  
PAGE 1 OF 2

Subj: OBJECTION TO JMSDF ADVISOR ON THE COURT OF INQUIRY  
INTO THE CIRCUMSTANCES SURROUNDING THE COLLISION  
BETWEEN THE USS GREENEVILLE (SSN 772) AND JAPANESE  
M/V EHIME MARU THAT OCCURRED OFF THE COAST OF OAHU,  
HAWAII ON 9 FEBRUARY 2001

Reference (a) does not indicate such limits, other  
than to say he is an advisor and non-voting member. I  
specifically object to his participation as a "member"  
in that he will be allowed to ask questions of the  
witnesses and parties and be present during  
deliberations. His participation can in no way  
further the specific purposes and scope of the inquiry  
as indicated in reference (c).

  
C. GITTINS

5 Mar 01

From: Counsel for Commander Scott D. Waddle, USN  
To: President, Court of Inquiry

Subj: OBJECTION TO LCDR BARRY L. HARRISON, JAGC, USN AS COUNSEL  
FOR THE COURT

1. As counsel for CDR Scott Waddle, USN, party to the court of inquiry investigation, I object to the presence of LCDR Harrison as counsel for the court. His continued participation in this court of inquiry may prejudice my client before the court. As evidence of the prejudice that could occur the following is specifically proffered:

a. Lieutenant Commander Harrison was an assistant to Captain Byus who was appointed as the initial preliminary investigating officer to the collision. Lieutenant Commander Harrison accompanied Captain Byus to the USS GREENEVILLE and assisted in the interview of the Commanding Officer after the ship pulled into Pearl Harbor on 10 February 2001.

b. Lieutenant Commander Harrison and Captain Byus had reason to believe that the Commanding Officer was suspected of an offense under the Uniform Code of Military Justice when they interviewed Commander Waddle. Captain Byus confirmed during an interview that he had reviewed the message traffic received from the ship before it pulled into Pearl Harbor. These messages indicated that the Commanding Officer had looked through the periscope but had failed to see the close aboard contact that was hit during the emergency surfacing procedure. Additionally, Captain Byus knew at the time he conducted his interview with Commander Waddle that Rear Admiral Konetzni intended to relieve Commander Waddle of command. Having read the OPREP message sent by the GREENEVILLE, knowing that the Commanding Officer failed to see a close aboard contact upon looking through the periscope and knowing that the Commanding Officer was to be relieved, Captain Byus and Lieutenant Commander Harrison violated Article 31, UCMJ rights when they interviewed the Commanding Officer without first reading him his rights.

c. As counsel for Commander Waddle, I intend to contest the admission of the statement taken in violation of Commander Waddle's privilege against self-incrimination as delineated by Military Rule of Evidence 301 and Article 31, UCMJ. Lieutenant Commander Harrison's involvement in taking this statement makes him unacceptable as an advisor to the court of inquiry that is charged with determining the truth of the circumstances surrounding the collision and ensuring the rights of designated parties.

d. Lieutenant Commander Harrison was intricately involved in the creation and drafting of the preliminary investigation. Lieutenant Commander Harrison was present at every interview

SEARCHED INDEXED  
SERIALIZED FILED  
MAR 1 2001  
FBI - OCS 2

Subj: OBJECTION TO LCDR BARRY L. HARRISON, JAGC, USN AS COUNSEL  
FOR THE COURT

conducted by Rear Admiral Griffiths and Captain Byus. Both Rear Admiral Griffiths and Captain Byus stated during interviews that all three officers agreed on the findings of fact, opinions and recommendations. Many of the findings of fact adverse to my client indicate that Lieutenant Commander Harrison has previously formed an opinion regarding the actions of Commander Waddle.

2. For the foregoing stated reasons, Lieutenant Commander Harrison should be removed as counsel for the court of inquiry.

  
Charles W. Gittins

EX-101  
EX-101  
EX-101

EXHIBIT F  
PAGE 16 OF 2  
2

From: Counsel for Commander Scott D. Waddle, USN  
To: President, Court of Inquiry

Subj: INDIVIDUAL MILITARY COUNSEL REQUEST FOR CDR SCOTT D.  
WADDLE, USN

Ref: (a) JAGINST 5830.1  
(b) JAGMAN, para. 0131

1. On 19 February 2001, Commander Scott D. Waddle submitted an Individual Military Counsel (IMC) request for Lieutenant Commander Christian L. Reismeier, JAGC, USN pursuant to his right to counsel as delineated in reference (a). On 20 February 2001, the convening authority denied that request per reference (b) relying on provisions in reference (b) that allow the convening authority to deny individual military counsel if the counsel is outside of the geographic limitations of the provision.

2. On 20 February 2001, Commander Scott D. Waddle submitted a request that Lieutenant Commander Christian L. Reismeier be made available by Commander Naval Legal Service Command to be detailed to Commander Waddle's defense. On 21 February 2001, Commander Naval Legal Service Command denied that request.

3. On 21 February 2001, Commander Scott D. Waddle submitted a reconsideration request for IMC of Lieutenant Commander Reismeier. In that consideration request Commander Waddle submitted to the convening authority that by following the restrictions set forth in reference (b), the convening authority eliminated his right to an IMC in this forum. In support of this submission Commander Waddle submitted an email transmission from Captain Timothy Young, Vice Commander Naval Legal Service Command requesting the assistance of Navy counsel outside of geographic limitations set forth in reference (b). Specifically in requesting counsel for future potential parties the email stated that no other counsel could be made available from within 100 miles or this judicial circuit. Commander Waddle's request for reconsideration of his IMC was also denied even though from the email sent out by Captain Young it was clear that Captain Cooper, Commanding Officer of Naval Legal Service Office Pacific had determined that she had no other counsel available to assign to this case. Since she had no other counsel available to assign to the GREENEVILLE collision, Commander Waddle has been denied his right to an IMC as delineated in reference (a).

  
Charles W. Gittins

EXHIBIT 6  
PAGE 1 OF 2

**HeroldJS2**

**From:** HeroldJS2  
**Sent:** Thursday, February 22, 2001 9:09 AM  
**To:** FinkJE; HinkleyDM  
**Subject:** FW: ADDITIONAL COUNSEL FOR GREENVILLE COI

Sirs: This email in support of the determination that no other attorneys are available in the NLSO PAC AOR for detailing or IMC. Please append this to CDR Waddle's IMC reconsideration request.

V/r, Jennifer  
J. S. HEROLD  
CDR, JAGC, USN  
XO, NLSO PAC  
at Pearl Harbor DSN 473-1388 ext. 308  
[heroldjs2@jag.navy.mil](mailto:heroldjs2@jag.navy.mil)

**From:** YoungTC  
**Sent:** Thursday, February 22, 2001 10:34:13 PM  
**To:** MorrissDM; PriceDP; SweeneyWG; GreeneTW; CloveRI; MacDonaldBE; HatchGT; AbbateG; CooperCJ  
**Cc:** BroughtonLA; ModzelewskiMD; RuizRoqueO; BannowSW; ArmstrongEL; GagelinMK; GreerCM; HeroldJS  
**Subject:** ADDITIONAL COUNSEL FOR GREENVILLE COI  
**Auto forwarded by a Rule**

NLSO COs and XOs;

I've talked to most of you about this subject in the past couple of days. Things have begun to shape up a little more. Here's the latest.

As you have undoubtedly read and seen in the news, CINCPACFLT has convened a Court of Inquiry. Three parties have been designated. They have been assigned counsel from NLSO PAC. Captain Cooper's resources have been exhausted.

In these cases, there is always a possibility that additional persons will be designated as parties as more information is developed. NLSC has been asked to provide 2 or 3 people to serve as "standby counsel" in the event that they are needed to represent additional parties. The plan is that these counsel would go to Hawaii and do what they can to become familiar with the situation. They would get the same discovery that all counsel are getting. Once the hearings commence, they would attend the hearings and observe the proceedings. If needed, they would then be appointed when/if additional parties are designated. At some point it may become clear that their services will not be needed --- at that point they would be released to return home.

I need you to tell me who from your command is available to travel to Hawaii on short notice --- with the understanding that the duration of this TAD could range from a week to many weeks. Please give me a very short synopsis of the experience level of any counsel you list.

I'm looking for at least 1 CDR or Captain --- so please consider yourselves, your XOs and senior OICs or Dept Hds as part of the potential pool.

I need your input by COB today.

I've already talked to several of you about this. Please confirm the results of those conversations with a reply to this note.

Capt Cooper -- no need to reply.

EXHIBIT 1  
PAGE 2 OF 12

Capt Hatch --- you are probably too far away to "play", but feel free to nominate.

Thanks for your help and can-do spirit.

/S/T. C. YOUNG  
CAPT, JAGC, USN  
VICE COMMANDER, NLSC



DEPARTMENT OF THE NAVY

COMMANDER IN CHIEF  
UNITED STATES PACIFIC FLEET  
250 MAKALAPA DRIVE  
PEARL HARBOR, HAWAII 96860-3131

IN REPLY REFER TO:

5800

Ser N00/296

22 Feb 01

From: Commander in Chief, U.S. Pacific Fleet  
To: CDR Scott D. Waddle, USN, C (b)(6)

Subj: RECONSIDERATION OF REQUEST FOR INDIVIDUAL MILITARY  
COUNSEL

Ref: (a) JAGINST 5830.1, para 0131  
(b) Your letter of 21 Feb 01  
(c) Your letter of 19 Feb 01

1. Per reference (a), reference (b) is denied. In reference (c), you noted that you did not have a prior attorney-client relationship with LCDR Reismeier. Since your request is for individual military counsel located outside of the judicial circuit and over 100 miles from the location of the proceeding, reference (a), dictates that your request be denied.

  
THOMAS A. FARGO

Copy to:

Senator Kay Bailey Hutchinson, Texas

Senator Phil Gramm, Texas

CO, NLSO MIDLANT

CO, NLSO PAC

Lieutenant Commander Reismeier, JAGC, USN

EXHIBIT 6  
PAGE 9 OF 12



21 Feb 01

From: Commander Scott D. Waddle, USN, [ (46) ]  
To: Commander in Chief, U. S. Pacific Fleet

Subj: RECONSIDERATION OF REQUEST FOR INDIVIDUAL MILITARY COUNSEL

Ref: (a) JAGINST 5830.1  
(b) JAGMAN section 0131  
(c) CINCPACFLT ltr 5800 Ser N00/270  
(d) CDR Scott D. Waddle ltr of 19 Feb 01

Encl: (1) Biography of LCDR C. L. Reismeier, JAGC, USN

1. Per reference (a) and (b), I respectfully request you reconsider your determination denying my request for individual military counsel per reference (c) and (d). Although the geographic limitations in reference (b) provide a basis to deny my request, I respectfully request that you reconsider my request based on the following information.
2. Both reference (a) and (b) state that I have a right to individual military counsel of my own selection. However, because of section b(4)(d) of reference (b), I am limited to selecting a counsel from within this 100 mile geographic area or the judicial circuit. I also understand that Captain Cooper, the Commanding Officer of NLSO PAC, determines if counsel within her area of responsibility are reasonably available. However, after inquiry, I understand that no other counsel are reasonably available in this area of responsibility to be assigned as detailed counsel or individual military counsel for this case. Because the Secretary has proscribed geographic limitations and because the collision occurred off the coast of Oahu and the court of inquiry is being convened in Hawaii I am now denied a right to individual military counsel. Hawaii is not within 100 miles of any other place where Navy judge advocates are stationed and it is a judicial circuit unto itself. Since no other counsel can be made reasonably available my right to an individual military counsel under Article 38, UCMJ is eliminated.
3. To ensure that I am not denied my statutory rights under the UCMJ, I respectfully request that LCDR Christian L. Reismeier be made available, despite his being not within 100 miles or the judicial circuit, since no other counsel are reasonably available in this area within the proscriptions of reference (b). Additionally in appointing the court of inquiry, you determined that geographical limitations were not a consideration. Appointed counsel for the court of inquiry are both from outside of 100 miles, one from Bremerton, Washington, the other from Washington D.C. Additionally, you have requested the presence of Rear Admiral Ozawa from the Japanese Maritime Self Defense Forces as an advisor to the board. Imposing geographic limitations on the defense effectively eliminates my statutory right to individual military counsel of my selection and sets up a tribunal that is fundamentally unfair to me or any party who would request counsel outside the 100 mile limit and this judicial circuit.



S. D. WADDLE

Copy to:  
LCDR Reismeier  
CO, NLSO MIDLANT  
CO, NLSO PAC  
Senator Kay Bailey Hutchison, Texas  
Senator Phil Gramm, Texas

EXHIBIT G  
PAGE 5 OF 12

Christian L. Reismeier  
LCDR, JAGC, USN

[ (b)(6) ]  
(H) [ (b)(6) ] (W) [ (b)(6) ] 1

EDUCATION Temple University School of Law - Philadelphia, Pennsylvania  
LL.M. in Trial Advocacy -- May 1999, With Honors

George Washington University National Law Center - Washington, DC  
JD -- May 1992  
Moot Court

[ (b)(6) ]

License Licensed to practice law in Virginia. Admitted before the Supreme Court of Virginia,  
Third Circuit Court of Appeals, Court of Appeal for the Armed Forces, Navy-Marine Corps Court of Criminal  
Appeals.

#### EXPERIENCE

May 1999- United States Navy -- Naval Legal Service Office Mid-Atlantic, Norfolk, Virginia  
Current Senior Defense Counsel

Managing attorney for 12 defense attorneys in Navy's most active litigation office, with attorneys averaging 50  
criminal and administrative hearings per counsel per year. Personally litigate all phases of felony trials, from pretrial  
hearings to sentencing. Nearly doubled the acquittal rate on contested charges in less than one year.

April 1998- U.S. Attorney's Office for the Eastern District of Pennsylvania --  
April 1999 Philadelphia, Pennsylvania Special Assistant United States Attorney

Prosecuted all phases of felony cases, from grand jury presentment to sentencing, including application of federal  
sentencing guidelines. Argued before Third Circuit Court of Appeals.  
Earned LL.M. in Trial Advocacy at Temple.

October 1996 - United States Navy - Navy-Marine Corps Appellate Review Activity, Washington, DC  
April 1998 Appellate Counsel for the United States Researched, briefed, and argued criminal appeals on behalf of  
the United States before the Navy-Marine Corps Court of Criminal Appeals and Court of Appeals for  
the Armed Forces.

Additionally, served as advisor on criminal law and procedure to Navy-Marine Corps prosecutors worldwide.  
Selected as the American Bar Association's Young Military Service Lawyer of the Year for the United States Navy  
for 1996-97.

June 1994 - United States Navy - Trial Service Office Southeast - Mayport, Florida  
October 1996 Senior Prosecutor

Ranked as the United States Navy's best litigator. Supervised 20 attorneys in 9  
offices, covering 11 states, in all phases of criminal prosecution.

Developed prototype prosecution model currently being implemented worldwide which separated  
prosecution and defense functions in the Navy. Personally litigated nearly every type of criminal  
case, including attempted espionage, murder, attempted murder, rape, child abuse, aggravated assault, drug  
trafficking, larceny, and economic fraud.



DEPARTMENT OF THE NAVY  
NAVAL LEGAL SERVICE COMMAND  
WASHINGTON NAVY YARD BLDG 33  
1322 PATTERSON AVENUE SE SUITE 3000  
WASHINGTON, DC 20374-5066

IN REPLY REFER TO

5817  
Ser 001  
21 Feb 01

From: Commander, Naval Legal Service Command  
To: Commander Scott D. Waddle, USN, [ (b)(c) ]

Subj: REQUEST FOR MILITARY COUNSEL

Ref: (a) Your letter of 20 Feb 01  
(b) CINCPACFLT ltr 5800 Ser N00/270 of 20 Feb 01  
(c) R.C.M. 506(b)  
(d) JAGMAN, § 0131  
(e) JAGINST 5830.1  
(f) JACMAN, § 0130  
(g) COMNAVLEGSVCCOMINST 5450.1E

1. This is in response to reference (a), in which you request that LCDR Christian Reismeyer, JAGC, USN, be detailed as your military defense counsel.

2. The convening authority, as reflected in reference (b), denied your previous request that LCDR Reismeyer be appointed as your individual military counsel (IMC). The convening authority determined that LCDR Reismeyer is not reasonably available since he is not assigned to a command located within the trial circuit of your court, is not stationed within 100 miles of the location of the court proceedings, and you do not have an attorney-client relationship with him. The convening authority acted in accordance with the provisions of references (c), (d), and (e) in denying your request, and this decision is not subject to administrative review. If you are asking that I "overrule" this decision of the convening authority, your request is returned as non-cognizable.

3. If your request is that I detail LCDR Reismeyer, separate and apart from IMC provisions and procedures, references (f) and (g) direct Commanding Officer, Naval Legal Service Office Pacific to provide defense counsel for all cases arising in the Pacific region, and I note that this officer has already detailed CDR Jennifer Herold, JAGC, USN, and LCDR H. Kimberlie Young, JAGC, USN, to represent you. CDR Herold and LCDR Young are both judge advocates certified by the Judge Advocate General to serve

Subj: REQUEST FOR MILITARY COUNSEL

as counsel in courts-martial, per Article 27(b) of the Uniform Code of Military Justice. They possess the necessary experience and skills to provide you a zealous and vigorous defense at your court of inquiry. With your consent, your detailed counsel has access to other counsel within their command for advice and assistance, if needed, in handling your defense. Furthermore, in the event you seek military counsel other than or in addition to your detailed counsel, you may request an IMC from within the judicial circuit, or one that is located within 100 miles of the proceeding.

4. In that action on your request is neither necessary nor appropriate, it is returned.

  
MICHAEL F. LOHR

Copy to:  
CINCPACFLT  
CO, NAVLEGSVCOFF MIDLANT  
CO, NAVLEGSVCOFF PACIFIC

20 Feb 01

From: CDR Scott D. Waddle, [ (b)(6) ]  
To: Commander Naval Legal Service Command

Subj: REQUEST FOR MILITARY COUNSEL

Ref: (a) R.C.M. 506(b)  
(b) JAGMAN 0131

1. Per references (a) and (b), I respectfully request that LCDR Christian L. Reismeier, JAGC, USN, Senior Defense Counsel, Naval Legal Service Mid-Atlantic, Norfolk, VA, be appointed as my individual military counsel in the court of inquiry into the circumstances surrounding the collision between the USS GREENEVILLE and the Japanese M/V Ehime Maru on 9 February 2001. The court of inquiry is set to convene on 22 February 2001.

2. I am currently named as a party to this investigation. Commander Jennifer S. Herold and LCDR H. Kimberlie Young are currently assigned as my detailed counsel. Although I have not established an attorney-client relationship with LCDR Reismeier, I have talked with him and know that he has the experience and trial advocacy expertise that I desire in counsel representing me. I believe that LCDR Reismeier should be made available to represent me even though he is technically not readily available under the IMC rules of reference (b). Currently the court of inquiry has counsel appointed to advise it who are not currently assigned within 100 miles or the same judicial circuit as the area in which the court of inquiry has been convened. Only one of three counsel assigned is a local attorney. The other two counsel are from Bremerton, Washington and Washington, D.C. Because of this I believe that I am entitled to military counsel of my selection if that counsel can be made available regardless of the geographic limitations listed in reference (b).

3. I respectfully request that LCDR Reismeier be made available so that CAPT Cooper, Commanding Officer of Naval Legal Service Office Pacific can detail LCDR Reismeier to represent me at this court of inquiry. I respectfully request to be informed of your decision and any reasons for denial, at your earliest convenience so as to allow requested counsel or my currently detailed counsel adequate time to prepare my defense.

  
S. D. WADDLE

Copy to:  
CINPACFLT  
CO, NLSO MIDLANT  
CO, NLSO PACIFIC

EXHIBIT 6  
PAGE 9 OF 12



DEPARTMENT OF THE NAVY

COMMANDER IN CHIEF  
UNITED STATES PACIFIC FLEET  
250 MAKALAPA DRIVE  
PEARL HARBOR, HAWAII 96860-3131

IN REPLY REFER TO:

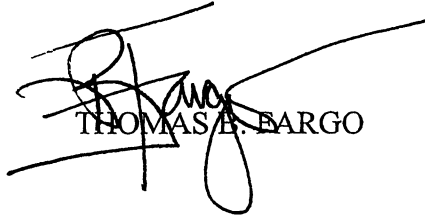
5800  
Ser N00/270  
20 Feb 01

From: Commander in Chief, U. S. Pacific Fleet  
To: Commander Scott D. Waddle, USN, [ (b)(6) ]

Subj: REQUEST FOR INDIVIDUAL MILITARY COUNSEL

Ref: (a) JAGMAN, Para. 0131  
(b) CDR Scott D. Waddle, USN, ltr of 19 Feb 01

1. Per reference (a), reference (b) is denied.

  
THOMAS E. BARGO

Copy to:  
Captain Price, USN  
Captain Cooper, USN  
Commander Herold, USN  
Lieutenant Commander Young, USN

19 FEB 01

From: CDR Scott Daniel Waddle, USN  
To: Commander in Chief, U.S. Pacific Fleet

Subj: REQUEST FOR INDIVIDUAL MILITARY COUNSEL

Ref: (a) JAGINST 5830.1  
(b) Para. 0131, JAGMAN

Encl: (1) CINCPACFLT ltr 5830 Ser N00/269 of 17 Feb 01

1. In accordance with references (a) and (b), I hereby respectfully request that Christian L. Reismeier, LCDR, JAGC, USN be appointed my individual military counsel for my pending court of inquiry. LCDR Reismeier is attached to Naval Legal Service Office MIDLANT in Norfolk, Virginia. His Commanding Officer is Captain David Price, JAGC, USN.

2. This request is submitted in accordance with the advice I received concerning my rights to counsel as explained to me by my detailed defense counsel, CDR Jennifer Herold, JAGC, USN and LCDR Kimberlie Young, JAGC, USN.

3. I do not have a prior attorney-client relationship with LCDR Reismeier.

4. The court of inquiry is presently scheduled for 22 February 2000 and has been directed to inquire into the matters contained in enclosure (1).

5. If this request is granted, I respectfully request that LCDR Kimberlie Young, JAGC, USN remain as my detailed defense counsel by the authority who detailed her.



S. D. WADDLE

Copy to:  
CAPT Price  
CAPT Cooper  
CDR Herold  
LCDR Young

EXHIBIT  
PAGE 11

12

20 Feb 01

From: CDR Scott D. Waddle, [ (4/6) ]  
To: Commander Naval Legal Service Command  
Subj: REQUEST FOR MILITARY COUNSEL

Ref: (a) R.C.M. 506(b)  
(b) JAGMAN 0131

1. Per references (a) and (b), I respectfully request that LCDR Christian L. Reismeier, JAGC, USN, Senior Defense Counsel, Naval Legal Service Mid-Atlantic, Norfolk, VA, be appointed as my individual military counsel in the court of inquiry into the circumstances surrounding the collision between the USS GREENEVILLE and the Japanese M/V Ehime Maru on 9 February 2001. The court of inquiry is set to convene on 22 February 2001.

2. I am currently named as a party to this investigation. Commander Jennifer S. Herold and LCDR H. Kimberlie Young are currently assigned as my detailed counsel. Although I have not established an attorney-client relationship with LCDR Reismeier, I have talked with him and know that he has the experience and trial advocacy expertise that I desire in counsel representing me. I believe that LCDR Reismeier should be made available to represent me even though he is technically not readily available under the IMC rules of reference (b). Currently the court of inquiry has counsel appointed to advise it who are not currently assigned within 100 miles or the same judicial circuit as the area in which the court of inquiry has been convened. Only one of three counsel assigned is a local attorney. The other two counsel are from Bremerton, Washington and Washington, D.C. Because I this I believe that I am entitled to military counsel of my selection if that counsel can be made available regardless of the geographic limitations listed in reference (b).

3. I respectfully request that LCDR Reismeier be made available so that CAPT Cooper, Commanding Officer of Naval Legal Service Office Pacific can detail LCDR Reismeier to represent me at this court of inquiry. I respectfully request to be informed of your decision and any reasons for denial, at your earliest convenience so as to allow requested counsel or my currently detailed counsel adequate time to prepare my defense.

  
S. D. WADDLE

Copy to:  
CINPACFLT  
CO, NLSO MIDLANT  
CO, NLSO PACIFIC

EXHIBIT G  
PAGE 12 OF 12